

<b>DOCKET</b>	
<b>04-AFC-1</b>	
<b>DATE</b>	<b>FEB 1 2006</b>
<b>REC'D</b>	<b>FEB 1 2006</b>

STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of: )  
 )  
 Application for Certification )  
 For the San Francisco )  
 Electric Reliability Project )

Docket No. 04-AFC-01

**RESPONSE OF THE CITY AND COUNTY OF SAN FRANCISCO TO THE MOTION  
 TO COMPEL APPLICANT TO RESPOND TO DATA REQUEST NUMBER 6,  
 CUMULATIVE IMPACTS ANALYSIS**

In accordance with the California Energy Commission's Rule 1716.5, the City and County of San Francisco (CCSF or City) respectfully submits this response to the motion to compel applicant to respond to data request number 6, cumulative impacts analysis filed by Robert Sarvey on January 27, 2006 (Sarvey Motion). The Sarvey Motion requests that the City undertake a cumulative impacts analysis that addresses Potrero Unit 7. The Sarvey Motion notes that Mirant recently filed a request for a further extension of the suspension of proceedings regarding Potrero Unit 7. The Sarvey Motion should be denied as unsupported and untimely.

A cumulative analysis that includes Potrero Unit 7 remains unnecessary because the Potrero Unit 7 is not a "probable future project". Since the City filed its response to Mr. Sarvey's request in July 2005 nothing has changed to make the project more likely; instead, several factors have emerged that weigh further against the project. The proceedings for licensing the project remain suspended; in fact, since the suspension has been in effect for a longer time period, the record has become even more stale. Formal City policy to oppose Potrero Unit 7 remains unchanged. The one fact that has changed is that Mirant has now emerged from bankruptcy. However, instead of asking to recommence the Potrero Unit 7 proceedings, Mirant has merely requested a further suspension.

Since July of 2005, additional facts weigh against the likelihood of a new baseload power plant like Potrero Unit 7 in San Francisco. First, the San Francisco Electric Reliability Project (SFERP) has progressed substantially and there is virtually no chance that two new power plants will be built in a highly controversial urban setting like San Francisco. Second, a series of transmission improvements designed to improve reliability in the City and the Peninsula are under construction or have been completed, such as the Jefferson-Martin 230 kV transmission line. Further, in November 2005, the California Independent System Operator (CAISO) approved the Transbay DC Cable Project (DC Cable) as the next project needed to maintain reliability in the City following the SFERP and its companion project at the San Francisco International Airport. In fact, in approving the DC Cable, the CA ISO governing board recognized that the DC Cable is projected to be in service before it is needed. Accordingly, there is not now or in the foreseeable future a reliability need for a second generating project in the City. In fact, there never was adequate justification for an oversized, baseload, single contingency generating project in a community of color with relatively high rates of serious

respiratory diseases that has been disproportionately impacted by industrial facilities including electric power generation (which is why the City is developing the SFERP instead).

Mr. Sarvey's request is also an untimely attempt to circumvent the CEC's denial of an extension of the discovery time period. The City responded to Mr. Sarvey's request indicating that it would not undertake a cumulative impacts analysis of Potrero Unit 7 over six months ago. If Mr. Sarvey had disagreed with the City's response, he should have filed a motion to compel at that time. He did not, even though, by the time the City had responded to Mr. Sarvey's request, the Commission had denied the request of another intervenor, Californians for Renewable Energy, to extend the discovery time period. Mr. Sarvey's attempt to file a motion to compel now, six months later, thus constitutes an improper attempt to circumvent the Commission's order refusing to extend the discovery deadline.

There is no new information at this time to support reopening the discovery deadline. As described above, the proceedings for Potrero Unit 7 remain suspended, and additional facts weigh against the construction of a second new generating project in the City. While Mirant has now emerged from bankruptcy, the fact that Mirant would at some point emerge from bankruptcy was completely foreseeable in July 2005 when Mr. Sarvey failed to file a motion to compel a response to his request.

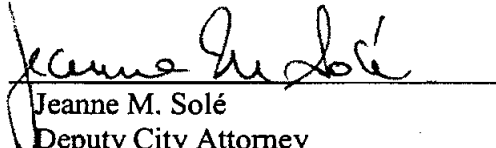
In sum, Mr. Sarvey's motion should be denied as unsupported and untimely.

Dated: February 1, 2006

Respectfully submitted:

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